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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIE EDGAR BUSH,

Defendant and Appellant.

B262574

(Los Angeles County
Super. Ct. No. MA064409)

APPEAL from a judgment of the Superior Court of Los Angeles County, Lisa Mangay Chung, Judge. Affirmed.

Bird & Bird, Karen Hunter Bird, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant Willie Edgar Bush appeals from the judgment entered following his conviction by jury on one count of assault with a deadly weapon. (Pen. Code, § 245, subd. (a)(1).)¹ Defendant's counsel filed an opening brief that raised no issues and requested independent review of the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). We affirm.

FACTUAL AND PROCEDURAL HISTORY

On November 19, 2014, defendant was charged by information with one count of assault with a deadly weapon, a stick, in violation section 245, subdivision (a)(1). The information further alleged that defendant personally inflicted great bodily injury as defined in section 12022.7, subdivision (a), rendering the offense a serious felony within the meaning of section 1192.7, subdivision (c)(8). Defendant pleaded not guilty to the charge and denied the enhancement allegation.

Jury trial commenced on February 10, 2015. The prosecution presented evidence that defendant engaged in an altercation with 54-year-old Anthony Davis outside a 7-Eleven store in Lancaster during the early morning hours of September 25, 2014. Davis testified that he was standing outside the store when he got into a short verbal argument with defendant, whom he previously had seen around the area and identified in court. According to Davis, defendant left after the argument and returned approximately 15 minutes later with two sticks. Defendant aimed for Davis's face and "started beating." Davis blocked his face with his arm. Defendant struck Davis in the arm with both sticks and hit him in the head with a single stick, injuring him in both areas. Defendant then ran away.

Davis testified that someone flagged down the police, who met him at a nearby bus stop. Officers located defendant and brought him back to the 7-Eleven, where Davis identified him as the assailant. Paramedics then transported Davis to the hospital in an ambulance. Davis received stitches to his head and arm. He also had a metal plate

¹ All further statutory references are to the Penal Code unless otherwise indicated.

placed in and a cast placed on his arm. The court admitted into evidence 14 pages of medical records from Antelope Valley Hospital.

Salend Kumar Lingam was working at the 7-Eleven store during the incident. He testified that defendant came into the store and bought cleaning supplies. As defendant was walking out of the store, Lingam saw him hit Davis with a small bottle. Davis then came into the store and told Lingam he wanted something done about it. Lingam eventually gave Davis a free cup of coffee and a cigarette to get him out of the store. Lingam stepped outside to smoke a cigarette with Davis when he saw defendant “running up with a 2-by-4 and hit him.” Lingam saw defendant hit Davis in the head and then begin “swinging everywhere.” Lingam ran inside the store and called 911. The court admitted a recording of his call into evidence.

When sheriffs and paramedics arrived, Lingam told them Davis had been hit with a stick or piece of wood but did not mention the bottle. About five minutes later, sheriff’s deputies brought defendant to the scene in a police car. Lingam testified that the person brought to the scene was the same person he had seen hitting Davis, but that he was wearing different clothes at the time. Lingam also identified defendant on a store security video depicting the incident that was admitted into evidence.

Deputy sheriff William Zavala testified that he was on patrol in Lancaster on the morning of September 25, 2014. He and his partner arrived at the 7-Eleven about five minutes after receiving a call about an assault there. Zavala talked to Davis and radioed Davis’s description of his assailant to dispatch. Approximately five to 10 minutes later, another deputy, Canela, called to say he had located a suspect. Zavala advised Davis about the procedures for field showups. Canela then brought out the suspect, whom Davis identified as his assailant and whom Zavala identified in court as defendant. According to Zavala, Davis was certain defendant was the assailant but noted he had changed his shirt.

Zavala later went to defendant’s house and found a “409 bottle” with blood on it. He also recovered a blue plaid shirt that had what appeared to be blood on it.

Photographs of both items were admitted into evidence. The stick or sticks used during the attack were never recovered.

Zavala spoke with defendant at the police station. Defendant told Zavala he went to the 7-Eleven to get cleaning supplies but denied any involvement in a fight or argument. During the interview, Zavala saw blood on defendant's hands. Defendant told Zavala the blood was not his.

Defendant testified on his own behalf. According to defendant, he went to the 7-Eleven on September 25, 2014 to buy cleaning supplies. When defendant exited the store, he saw Davis standing outside. Defendant gave Davis a cigarette and then went home, where he began cleaning and working in the backyard. A patrol car pulled up in front of defendant's house, and when he went out front to investigate, a sheriff's deputy handcuffed him and accused him of assaulting and robbing someone at the 7-Eleven before driving him there in the patrol car.

Defendant denied ever hitting Davis with a glass bottle, 2-by-4, or any type of wooden stick. He also denied threatening Davis or being threatened by him. Defendant admitted to purchasing 409 and other cleaning supplies, but testified they were still in the 7-Eleven bag when deputies searched his house. He also denied owning the blue plaid or striped shirt depicted in the photograph admitted at trial.

The jury returned a verdict of guilty and found the enhancement allegation true on February 13, 2015. On March 5, 2015, the court sentenced defendant to the midterm of three years, plus an additional consecutive three years pursuant to section 12022.7, subdivision (a). The court awarded defendant credit for 180 days of actual custody and 27 days of good time/work time credit. The court imposed a \$40 court security fee, a \$30 facility assessment fee, a \$300 victim restitution fine, and imposed and suspended a \$300 parole revocation fine. Defendant timely appealed.

DISCUSSION

Defendant's appellate counsel filed a brief that raised no issues and asked this court to independently review the record pursuant to *Wende, supra*, 25 Cal.3d 436. On September 15, 2015, we sent a letter to defendant's last known address, advising him that

he had 30 days within which to submit by brief or letter any contentions or argument he wished this court to consider. We have received no response to our letter to date.

We have examined the entire record and are satisfied that no arguable issues exist, and that defendant has, by virtue of counsel's compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the order entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

DISPOSITION

The judgment of the trial court is affirmed.

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COLLINS, J.

We concur:

EPSTEIN, P. J.

MANELLA, J.